

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:12-cv-00388-MR**

WILLIAM N. DEVLIN and wife )  
CARRIE LUCKSAVAGE, )  
Plaintiffs, )  
vs. )                           ORDER  
WELLS FARGO BANK, N.A., )  
Defendant. )  
\_\_\_\_\_  
)

**THIS MATTER** is before the Defendant's Motion to Strike Supplemental Memorandum [Doc. 17]; the Plaintiffs' Motion to Withdraw Supplementation to their Response to Defendant's Motion to Dismiss [Doc. 19]; and Plaintiffs' Motion for Leave to Supplement Response to Motion to Dismiss [Doc. 20].

The Defendant has moved to dismiss the Plaintiff's Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil procedure. [Doc. 12]. The Plaintiffs filed a timely Response to the Defendant's Motion [Doc. 14], and the Defendant filed a timely Reply [Doc. 15]. Thereafter, the Plaintiff filed a Supplemental Memorandum in support

of its Response. [Doc. 16]. The Defendant moves to strike the Supplemental Memorandum. [Doc. 17]. In response, the Plaintiff moves to withdraw the Supplemental Memorandum [Doc. 19], and instead moves for leave to supplement its Response and “disclose unto the court materials and newly discovered evidence which support and confirm the allegations contained in the Plaintiffs[’] complaint.” [Doc. 20 at 2].

The Plaintiffs’ motion for leave to supplement its Response is denied. A Rule 12 motion to dismiss tests only the legal sufficiency of the pleadings. See Edwards v. City of Goldsboro, 178 F.3d 231, 243-44 (4<sup>th</sup> Cir. 1999). Evidentiary matters outside the pleadings have no bearing on the sufficiency of the Plaintiffs’ Amended Complaint and therefore must be disregarded at this stage of the litigation. See Bostic v. Mader, No. 2:12cv87, 2013 WL 4079288, at \*8 (W.D.N.C. Aug. 13, 2013).

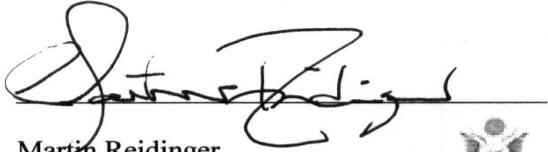
**IT IS, THEREFORE, ORDERED** that:

- (1) Plaintiffs’ Motion to Withdraw Supplementation to their Response to Defendant’s Motion to Dismiss [Doc. 19] is **ALLOWED**;
- (2) Defendant’s Motion to Strike Supplemental Memorandum [Doc. 17] is **DENIED AS MOOT**; and

(3) Plaintiffs' Motion for Leave to Supplement Response to Motion  
to Dismiss [Doc. 20] is **DENIED**.

**IT IS SO ORDERED.**

Signed: January 8, 2014



Martin Reidinger  
United States District Judge

